S.B. Civil Writ Petition No.178/99
Ramdas Athwal Vs. State & Ors.

Date of Order : 17/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Reashm Bhargava, for petitioner
Mr. B.K. Sharma, Dy.G.A.

With the consent of parties, this writ petition is finally heard and decided at the stage of admission.

Instant petition has been filed seeking reference of the dispute which the petitioner has raised for its adjudication by the concerned Labour Court/Tribunal under the provisions of the Act of 1947.

Facts in brief are that the petitioner was working as Fitter in the office of respondent No.3 and his services were dispensed with by oral order w.e.f. 10th August, 1994 which was challenged by him by way of Writ Petition No.4880/04, decided on 16th April, 1996 [Ex.7] with the observation that in view of efficacious alternative remedy available to him under the Act of 1947, the writ petition is not maintainable. After the order of this court, the petitioner filed application before the conciliation

officer, but the dispute raised by him was dismissed holding it to be without any merit on 5th August, 1998, copy of the same was not supplied to him. He further served a notice with the request to provide relevant proceedings of the order, but that also was not supplied. During pendency, the respondents have forwarded failure report to the appropriate government and counsel has informed that vide communication dt.28th June, 2004 the petitioner has been informed that the appropriate authority has not taken any decision because of pendency of writ petition before this court.

Counsel for petitioner submits that once the writ petition was dismissed by this court on account of alternative remedy available under Act of 1947 and under the direction he filed application before the conciliation officer, which the appropriate authority was under an obligation to refer the matter for adjudication of dispute under the Act. Denial of the same is making him remediless which is never the intention of the legislature in enacting the provision under Act of 1947.

No reply to the writ petition has been filed, but from the perusal of order dt.28th June, 2004 the appropriate government has not applied its mind

further after failure report was received because of pendency of writ petition before this court.

I have considered the submissions of the counsel and perused the material.

It is not disputed that the petitioner's services were terminated by verbal order w.e.f. 10th August, 1994 and when he assailed the same by way of writ petition before this court, the same was dismissed on the ground of efficacious & alternative remedy available to him under Act of 1947, in my opinion, in view of observation made by this court earlier while dismissing the writ petition the appropriate government was under an obligation to make a reference providing him an opportunity of adjudicating the dispute which he raised by submitting application before the conciliation officer and no reason otherwise has been assigned while rejecting his application.

Consequently, I allow the writ petition and the respondents are directed to make a reference of the dispute raised by him, within a period of two months and the concerned Labour Court/Tribunal may also consider the same and decide the matter expeditiously. No costs.

[Ajay Rastogi],J.

FRB